

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Index No.
07 Civ. 3543

MICHAEL BRADFORD, PAT DAMIANI, JR., JOSEPH LEONARDIS, JOHN DISPENSA, ROBERT DIZZINE, FRANK DOLLBAUMN, RICH GILMORE, JOHN HILL, PHILIP HUGGINS, JAMES JOHANNEMANN, JOHN MARALA, JOHN A. MARALA, ROBERT NIGRO, RAYMOND PANTEL, RICHARD PARKER, TIMOTHY RILEY, JEFF SEIDEL, CARL TALLARDY, ALLAN THOMPSON, JR., JAMES SASS, JR. and SANFORD WHITMAN, AS TRUSTEES OF THE IBEW LOCAL 363 PENSION, WELFARE, ANNUITY AND J.T. FUNDS,

Plaintiffs,

-against-

ANSWER

DAVID L. KEMPTON, INC., a/k/a L.I.A.
ELECTRIC CORP.,

Defendant

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The Defendant, DAVID L. KEMPTON, INC., improperly sued herein as DAVID L. KEMPTON, INC. a/k/a L.I.A. ELECTRIC CORP., by its attorneys, Barr & Haas ^{LLP}, answering the Complaint herein, respectfully:

1. Denies each and every allegation contained in the Complaint.

AS AND FOR A FIRST, SEPARATE AND DISTINCT DEFENSE TO THE COMPLAINT THE DEFENDANT DAVID L. KEMPTON, INC., RESPECTFULLY ALLEGES:

2. David L. Kempton, Inc. was not a signatory to any collective bargaining agreement between the parties and is therefore not a responsible party as described in this agreement.

AS AND FOR A SECOND, SEPARATE AND DISTINCT DEFENSE TO THE COMPLAINT THE DEFENDANT DAVID L. KEMPTON, INC., RESPECTFULLY ALLEGES:

3. That the defendant, David L. Kempton, Inc. never employed any of the individual employees referred to in paragraph "12" of the Complaint and is therefore not responsible for the payment of any fringe benefits or for the submission of any reports to the Plaintiff.

WHEREFORE, the Defendant David L. Kempton, Inc. requests that the Complaint herein be dismissed together with the costs and disbursement of this action.

Dated: Spring Valley, N.Y.
September 20, 2007

BARR & HAAS ^{LLP}
Attorneys for Defendant
David L. Kempton, Inc.

By: _____ /s/
HARVEY S. BARR, ESQ.
A Member of the Firm
664 Chestnut Ridge Road
P. O. Box 664
Spring Valley, N.Y. 10977
(845) 352-4080

TO: MEYER, SUOZZI, ENGLISH & KLEIN, P.C.
425 Broadhollow Road, Suite 405
PO Box 9064
Melville, NY 11747-9064

STATE OF NEW YORK)
COUNTY OF ROCKLAND) SS.:
)

Sharon Goldberg, being duly sworn, deposes and says:

That deponent is not a party to this action, is over the age of 18 years and resides at Rockland County, New York.

That on the 20th day of September, 2007, deponent served and electronically filed the annexed **ANSWER** on the following persons at the addresses designated by them for that purpose by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service with the State of New York, addressed to the last known address of the addressees as indicated below:

MARTIN GLENNON, ESQ.
MEYER, SUOZZI, ENGLISH & KLEIN, P.C.
425 Broadhollow Road, Suite 405
PO Box 9064
Melville, NY 11747-9064

/s/
SHARON GOLDBERG

Sworn to before me this
20th day of September, 2007

/s/
NOTARY PUBLIC
Leah M. Tosh
No: 30-4721207
Expires: April 30, 2010